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**UNITED STATES BANKRUPTCY COURT**

**NORTHERN DISTRICT OF CALIFORNIA, SALINAS DIVISION**

In re:

Maximino Rodriguez and Maria Evelia  
Rodriguez,  
  
Debtors.

Bank of America, N.A.,

Movant,  
vs.

Maximino Rodriguez and Maria Evelia  
Rodriguez, Debtors, and Devin Derham-Burk,  
Trustee,

Respondents.

Bankruptcy Case No. 14-52923

RS No. CJO- 624

Chapter 13

**HEARING DATE:**  
**DATE: 08/03/2016**  
**TIME: 11:30 AM**  
**CTRM: Ste 214**

**MOTION FOR RELIEF FROM AUTOMATIC STAY**

**(REAL PROPERTY)**

Bank of America, N.A. ("Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtors having an address of 1074 Partridge Way, Salinas, CA 93905 (the "Property"). The facts and circumstances supporting this Motion are set forth in the Declaration in Support of Motion for Relief from Automatic Stay filed contemporaneously herewith (the "Declaration"). In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed

with respect to the Debtors on July 9, 2014.

2. A Chapter 13 Plan was confirmed on September 16, 2014.

3. The Debtors have executed and delivered that certain Equity Maximizer Agreement and Disclosure Statement in the original principal amount of \$40,000.00 (the "Note"). Movant is an entity entitled to enforce the Note. A copy of the Note is attached hereto as Exhibit "1."

4. Pursuant to that certain Short Form Deed of Trust (the "Deed of Trust"), all obligations (collectively, the "Obligations") of the Debtors under the Note and the Deed of Trust with respect to the Loan are secured by the Property. A copy of the Deed of Trust is attached hereto as Exhibit "2."

The Obligations have been modified pursuant to a Home Secured Lines of Credit Credit Limit Increase Agreement and Modification Agreement, true and correct copies of which are attached hereto as Exhibit "5."

5. As of the June 3, 2016, the outstanding Obligations are:

Unpaid Principal Balance	\$130,305.13
Unpaid, Accrued Interest	\$6,036.82
Costs	\$0.00
Less: Partial Payments	(\$0.00)
Minimum Outstanding Obligations	\$136,341.95

6. The following chart sets forth the number and amount of payments due pursuant to the terms of the Note that have been missed by the Debtors:

<u>Number of Missed Payments</u>	<u>From</u>	<u>To</u>	<u>Monthly Payment Amount</u>	<u>Total Amounts Delinquent</u>
PCN Adjustment				\$(9.78)
1	11/30/2014	11/30/2014	\$293.55	\$293.55
1	12/30/2014	12/30/2014	\$293.46	\$293.46
1	01/30/2015	01/30/2015	\$1,027.14	\$1,027.14
1	02/28/2015	02/28/2015	\$1,007.59	\$1,007.59
1	03/30/2015	03/30/2015	\$1,017.36	\$1,017.36
1	04/30/2015	04/30/2015	\$1,027.15	\$1,027.15
1	05/30/2015	05/30/2015	\$1,017.36	\$1,017.36
1	06/30/2015	06/30/2015	\$1,027.15	\$1,027.15

1	1	07/30/2015	07/30/2015	\$1,017.36	\$1,017.36
2	1	08/30/2015	08/30/2015	\$1,027.15	\$1,027.15
3	1	09/30/2015	09/30/2015	\$1,027.14	\$1,027.14
4	1	10/30/2015	10/30/2015	\$1,017.37	\$1,017.37
5	1	11/30/2015	11/30/2015	\$1,027.14	\$1,027.14
6	1	12/30/2015	12/30/2015	\$1,017.37	\$1,017.37
7	1	01/30/2016	01/30/2016	\$1,027.01	\$1,027.01
8	1	02/29/2016	02/29/2016	\$1,043.27	\$1,043.27
9	1	03/30/2016	03/30/2016	\$1,043.26	\$1,043.26
10	1	04/30/2016	04/30/2016	\$1,053.91	\$1,053.91
11	1	05/30/2016	05/30/2016	\$1,043.26	\$1,043.26

**Total: \$18,045.22**

7. Cause exists for relief from the automatic stay for the following reasons:

(a) Debtor has failed to make regular monthly payments in the instant case.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

3. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.

4. For such other relief as the Court deems proper.

Movant further requests that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.

Dated: June 28, 2016

Respectfully Submitted,

MALCOLM ♦ CISNEROS.A Law Corporation

By: /s/ Christina J. O

Christina J. O

Attorney for Movant